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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/724,995	12/01/2003	Nancy Cam Winget	72255/00010	3154
23380	7590	07/08/2009		
TUCKER ELLIS & WEST LLP 1150 HUNTINGTON BUILDING 925 EUCLID AVENUE CLEVELAND, OH 44115-1414				
EXAMINER				
POPHAM, JEFFREY D				
ART UNIT		PAPER NUMBER		
2437				
NOTIFICATION DATE		DELIVERY MODE		
07/08/2009		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/724,995

Applicant(s)

WINGET ET AL.

Examiner

JEFFREY D. POPHAM

Art Unit

2437

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 25 June 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1,2,5-10,15-21,24,26 and 27.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Emmanuel L. Moise/
Supervisory Patent Examiner, Art Unit 2437

/Jeffrey D Popham/
Examiner, Art Unit 2437

Continuation of 7: The claims would be rejected in the same manner as before as the amendment merely fixes issues in the claims, but does not appear to change the scope of the claims.

Continuation of 11. does NOT place the application in condition for allowance because: Applicant has provided the same arguments as provided in the remarks filed 1/30/2009; such arguments having already been responded to in the final office action dated 4/10/2009. As no response to the final office action's response to arguments has been provided and no additional arguments have been provided, but only a mere copy of previous arguments, a copy of the same response to the same arguments is provided here.

Applicant argues that "Dogan does not teach or suggest receiving a shared secret via a first secure tunnel established between a peer and a server using asymmetric encryption." Paragraph 23 of Dogan, for example, explicitly states that "the terminal generates the master secret in a random fashion, and provides the master secret to the base station using public key cryptography. In one embodiment, the master secret is established during registration." This communication that is protected using public key cryptography (e.g. registration connection that encrypts the master secret using public key cryptography) corresponds to the first secure tunnel of claim 1. Public key cryptography is described as being asymmetric in paragraph 4 of the instant application, for example, and such is well known in the art. One can see from the above that the master secret may be exchanged using public key cryptography, such an exchange equating to a first secure tunnel that uses asymmetric cryptography.

Applicant argues that Dogan does not teach or suggest "cryptographically binding a subsequent secure tunnel with conversations inside the tunnel". Applicant continues by stating that "Cryptographic binding of the tunnel with the conversation inside the tunnel helps prevent man-in-the-middle attacks which enable an adversary to take control of information between a peer and a server." Dogan describes that the subsequent secure tunnels are cryptographically protected via the connection secret that is generated from the master secret. Therefore, since only the originating device (e.g. user terminal) and terminating device (e.g. base station) can generate this connection secret, and all communication in this connection is secured with the connection secret, no adversary can take control of information between the entities. The limitation states "cryptographically binding the subsequent new secure tunnel with conversations inside the subsequent new secure tunnel" (claim 1). This appears to solely mean that the entities communicate inside the tunnel in a cryptographic manner. The cryptographic binding is made by securing all communication within connection with the connection secret used as a symmetric encryption key. Since the entities of Dogan communicate inside the subsequent new secure tunnel by using the connection secret (paragraph 35, for example), this limitation is clearly found within Dogan.